

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 262
FINAL READING

Introduced by Stuhr, 24

Read first time January 10, 2005

Committee: General Affairs

A BILL

1 FOR AN ACT relating to cemeteries; to amend sections 12-402,
2 16-242, and 17-946, Reissue Revised Statutes of Nebraska;
3 to authorize certain cities and villages to use funds for
4 the purchase and development of land as prescribed; to
5 harmonize provisions; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 12-402, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 12-402. (1) The mayor and council or the ~~chairperson~~ and
4 board of trustees, for the purpose of defraying the cost of the
5 care, management, improvement, beautifying, and welfare of such
6 cemeteries, may each year levy a tax not exceeding five and
7 two-tenths cents on each one hundred dollars upon the taxable value
8 of all the taxable property in such city or village subject to
9 taxation for general purposes. The tax shall be collected and paid
10 to the city or village as taxes for general purposes are collected
11 and paid to the city or village. All taxes collected for this
12 purpose shall constitute and be known as the cemetery fund and
13 shall be used for the general care, management, improvement,
14 beautifying, and welfare of such cemetery. Warrants upon this fund
15 shall be drawn by the cemetery board and shall be paid by the city
16 or village treasurer.

17 (2) If the mayor and council or the board of trustees
18 sets aside the proceeds from the sale of lots as a perpetual fund,
19 the principal of the fund that is attributable to such proceeds, or
20 attributable to any money which has come to the fund by donation,
21 bequest, or otherwise that does not prohibit such use, may be used
22 for the purchase and development of additional land to be used for
23 cemetery purposes as long as no more than twenty-five percent of
24 such principal is so used in any fiscal year and no more than
25 thirty-five percent of such principal is so used in any period of
26 ten consecutive fiscal years.

27 (3) This section does not limit the use of any money that
28 comes to the city or village by donation, bequest, or otherwise

1 that is not designated to be credited to the perpetual fund or that
2 allows greater use for purchase or development of additional land
3 to be used for cemetery purposes.

4 Sec. 2. Section 16-242, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 16-242. (1) A city of the first class may survey, plat,
7 map, grade, fence, ornament, and otherwise improve all burial and
8 cemetery grounds and avenues leading thereto owned by such city.
9 It may construct walks, rear and protect ornamental trees therein,
10 and provide for paying the expenses thereof.

11 (2) After the burial and cemetery grounds are fully paid
12 for, ~~it~~ the city may set aside the proceeds of the sale of lots as
13 a perpetual fund to be invested as provided by ordinance. The
14 income from the fund ~~and the income therefrom~~ shall be used for
15 the care, ornamentation, or maintenance of such lots or the
16 cemetery in general. ~~It~~ The principal of the perpetual fund may be
17 used for the purchase and development of additional land to be used
18 for cemetery purposes as long as no more than twenty-five percent
19 of the principal is so used in any fiscal year and no more than
20 thirty-five percent of the principal is so used in any period of
21 ten consecutive fiscal years.

22 (3) The city may receive money by donation, bequest, or
23 otherwise to be held in trust in perpetuity to be invested as
24 provided by ordinance or conditioned by the donor. The ~~and the~~
25 income therefrom shall be used for the care, ornamentation, and
26 maintenance of such property as the donor may designate. The
27 principal therefrom may be used for the purchase and development of
28 additional land to be used for cemetery purposes as the donor may

1 designate as long as no more than twenty-five percent of the
2 principal is so used in any fiscal year and no more than
3 thirty-five percent of the principal is so used in any period of
4 ten consecutive fiscal years.

5 (4) The city treasurer shall be the custodian of such
6 funds, and the same shall be invested by a board composed of the
7 mayor, city treasurer, and city clerk.

8 (5) This section does not limit the use of any money that
9 comes to the city by donation, bequest, or otherwise that is not
10 designated to be credited to the perpetual fund or that allows
11 greater use for purchase or development of additional land to be
12 used for cemetery purposes.

13 Sec. 3. Section 17-946, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 17-946. ~~Such~~ (1) The board of trustees of a cemetery
16 association formed pursuant to section 17-944 shall have power:
17 ~~(1)~~

18 (a) To limit the number of cemetery lots that shall be
19 owned by the same person at the same time; ~~(2) to~~

20 (b) To prescribe rules for enclosing, adorning, and
21 erecting monuments and tombstones on cemetery lots; ~~(3) to~~

22 (c) To prohibit any diversions of the use of such lots,
23 and any improper adornment thereof, but no religious tests shall be
24 made as to the ownership of lots, the burial therein, or the
25 ornamentation of graves or of such lots; and ~~(4) to~~

26 (d) To pass rules and ordinances imposing penalties and
27 fines, not exceeding one hundred dollars, regulating, governing,
28 and protecting the cemetery, the owners of lots therein, visitors

1 thereof, and trespassers therein.

2 (2) The officers of ~~such city~~ a city of the second class
3 or village in which a cemetery association has been formed pursuant
4 to such section shall have as full jurisdiction and power in the
5 enforcing of ~~such~~ rules and ordinances passed pursuant to
6 subsection (1) of this section as though ~~they~~ such rules and
7 ordinances related to the corporation of such city or village
8 itself.

9 (3) All money received from sale of lots in any such
10 cemetery, or which may come to it by ~~gifts or devise~~ donation,
11 bequest, or otherwise, shall be devoted exclusively to the care,
12 management, adornment, and government of such cemetery itself, and
13 shall be expended exclusively for such purposes under the direction
14 of ~~such~~ the association's board of trustees, except that in
15 addition, and notwithstanding any provision of Chapter 12, article
16 5, the principal of the fund that is attributable to money received
17 from the sale of lots, or attributable to money which has come to
18 the fund by donation, bequest, or otherwise that does not prohibit
19 such use, may be used for the purchase and development of
20 additional land to be used for cemetery purposes as long as no more
21 than twenty-five percent of such principal is so used in any fiscal
22 year and no more than thirty-five percent of such principal is so
23 used in any period of ten consecutive fiscal years.

24 (4) This section does not limit the use of any money that
25 comes to the city or village by donation, bequest, or otherwise
26 that is not designated to be credited to the perpetual fund or that
27 allows greater use for purchase or development of additional land
28 to be used for cemetery purposes.

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1 Sec. 4. Original sections 12-402, 16-242, and 17-946,
2 Reissue Revised Statutes of Nebraska, are repealed.